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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,157	01/03/2002	Robert P. Carlstedt	60,130-1023; 01MRA0134	7799
26096	7590	12/30/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C.			O'CONNOR, GERALD J	
400 WEST MAPLE ROAD			ART UNIT	
SUITE 350			PAPER NUMBER	
BIRMINGHAM, MI 48009			3627	

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,157

Applicant(s)

Carlstedt et al.

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 9, 2005 and October 7, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-17 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 3, 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Preliminary Remarks

1. This Office action responds to the amendment and arguments filed by applicant on June 9, 2005 in reply to the previous Office action on the merits, mailed March 9, 2005, and to the amendment and election filed by applicant on October 7, 2005 in reply to the Office action setting forth a requirement for restriction, mailed September 8, 2005.

2. The amendment of claims 1, 3, and 5-16 by applicant in the reply filed June 9, 2005 is hereby acknowledged.

3. The amendment of claim 8 by applicant in the reply filed October 7, 2005 is hereby acknowledged.

Election/Restriction

4. Applicant's election without traverse of the invention of Group II, claims 8-17, in the reply filed October 7, 2005 is hereby acknowledged.

5. The cancellation of non-elected claims 1-7 by applicant in the reply filed October 7, 2005 is hereby acknowledged.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kijima et al. (US 6,230,084).

Kijima et al. teach providing a vehicle having a plurality of available suspension options, comprising: a communication providing information (fig. 4); module that facilitates a vehicle seller obtaining information (from paragraph 139 “the characteristic information is formed in a separate device and transferred to the object vehicle. According to this embodiment, when a driver bought a new vehicle (object vehicle), the driver receives a characteristic information forming device 240, instruction book 261, data entry item list 262 and IC card 260 for writing therein the data from the characteristic information forming device 240. The driver enters characteristic information relating to driver (sex, age, driving experience and the like), vehicle performance (drivability, riding comfort, fuel consumption efficiency), use condition (use circumstances and the like) in accordance with data list 262. Then, the characteristic information is transferred to the IC card 260” and a data module that is accessible using the communication module, the data module providing information regarding the plurality of suspension options available for a selected vehicle; and an adjustable active suspension module (via switch 95)

supported on a demonstration vehicle that is selectively adjusted to perform as at least one of the plurality of available suspension options such that a customer is permitted to sample at least the selected one of the plurality of suspension options using the demonstration vehicle.

It is noted Kijima et al. teach all the elements of the claimed vehicles with the exception of teaching the method for selling a vehicle with multiple passive suspension options. However, it has been a well-established practice for car dealerships to use demonstration vehicles to promote sales of a particular vehicle, and official notice to that effect is hereby taken. It is also noted that claim 1 of Kijima et al. suggest that the invention described therein is for the sale of a vehicle. Furthermore, an active suspension is inherently capable of performing as (i.e., the same as) a passive suspension. Accordingly, to employ the demonstration vehicle of Kijima et al. in a method for selling a vehicle having multiple suspension options would have been obvious for one having ordinary skill in the art at the time of the invention. The advantage for such a modification would have been to change the vehicle characteristic of the object vehicle to meet the driver's taste and to promote sales of a particular vehicle.

Response to Arguments

8. Applicant's arguments filed June 9, 2005 have been fully considered but are not persuasive.
9. Regarding the argument that the active suspension of Kijima et al. is incapable of performing as a passive suspension, any active suspension is inherently capable of performing as if it were a passive suspension. All that is required to do so is to simply refrain from adjusting it.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to the disclosure.

11. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Alexander Kalinowski, can be reached at **(571) 272-6771**.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

December 21, 2005

 12/21/05

Gerald J. O'Connor
Primary Examiner
Group Art Unit 3627